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13 **UNITED STATES DISTRICT COURT**
14 **DISTRICT OF ARIZONA**

15 State of Arizona, *ex rel.* Kristin K. Mayes,
16 Attorney General, *et al.*,

17 Plaintiffs,

18 v.

19 Michael D. Lansky, L.L.C., dba Avid
20 Telecom, *et al.*,

21 Defendants.

CASE NO.: 4:23-cv-00233-TUC-CKJ
(MAA)

[ORAL ARGUMENT REQUESTED]

**PLAINTIFFS' MOTION TO
COMPEL DEFENDANT MICHAEL
D. LANSKY'S DOCUMENT
PRODUCTION IN RESPONSE TO
PLAINTIFFS' FIRST SET OF
REQUESTS FOR PRODUCTION
OF DOCUMENTS**

22 Pursuant to Rule 37 of the Federal Rules of Civil Procedure, Plaintiff States
23 (collectively, "Plaintiffs"), respectfully request the Court to order Defendant Michael D.
24 Lansky ("Lansky") to provide requested documents that he has failed to produce and/or
25 not logged correctly under the Court's ESI Order (Dkt. #120).

26 This Motion is supported by the following Memorandum of Points and Authorities,
27 the Declaration of Sarah Pelton and the exhibits attached thereto, and any oral argument
28 that may be heard on this issue.

GOOD FAITH CONSULTATION CERTIFICATE

In accordance with Rule 37(a)(1) of the Federal Rules of Civil Procedure and Local Rule 7.2(j), undersigned counsel represents that prior to filing the instant Motion, Plaintiffs attempted multiple times to personally confer with Defendant Lansky’s counsel regarding Defendant Lansky’s failure to respond to Plaintiffs’ Requests, but to no avail. *See* Declaration of Sarah Pelton (“Pelton Decl.”), dated January 7, 2025 at ¶¶ 9-15, 17-18, 28-29, Exs. F-J, K-L, Q. Accordingly, the Plaintiffs were left with no alternative other than to file and serve this Motion.

MEMORANDUM OF POINTS AND AUTHORITIES

I. INTRODUCTION

Plaintiffs brought this lawsuit to protect consumers from Defendant Michael D. Lansky, LLC, dba Avid Telecom (“Defendant Avid Telecom”) – and its co-defendants Lansky’s and Stacey S. Reeves’ (“Defendant Reeves”) – illegal telemarketing and robocall schemes. As set forth in the Complaint, Defendants Avid Telecom, Lansky and Reeves are in the business of providing Voice over Internet Protocol (“VoIP”) services, facilitating or initiating robocalls, and/or helping others make illegal robocalls – in violation of multiple state and federal laws.

On March 6, 2025, Plaintiffs served Defendant Lansky with the Requests seeking production of relevant and admissible evidence in Lansky’s possession related to Plaintiffs’ causes of action under the Telemarketing and Consumer Fraud and Abuse Prevention Act, the Telemarketing Sales Rule, the Telephone Consumer Protection Act, the Truth in Caller ID Act, as well as other state and federal laws, and Defendant Lansky’s claimed defenses thereto. *See* Pelton Decl. at ¶ 3, Ex. A.

The Plaintiffs have met and conferred to discuss concerns with Defendant Lansky’s production and have made no progress with defense counsel. Defendant Lansky is unwilling to resolve disputes regarding Plaintiffs’ written discovery requests without court intervention. Plaintiffs insist that Defendant Lansky comply with his discovery obligations,

1 and Defendant Lansky consistently refuses to do so. Accordingly, Defendant Lansky
2 should be compelled to provide compliant document production in response to Plaintiffs’
3 Requests.

4 5 **II. RELEVANT FACTS**

6 On or about March 6, 2025, Plaintiffs served Defendant Lansky with the Requests
7 pursuant to Rule 34 of the Federal Rules of Civil Procedure. *See* Pelton Decl. at ¶ 3, Ex. A.
8 The Requests sought documents regarding Defendant Lansky’s purported role and
9 involvement in Defendant Avid Telecom’s conduct of transmitting illegal robocalls. *Id.* at
10 Ex. A. The statutory deadline, April 7, 2025, came and went with no response from
11 Defendant Lansky. *See* Fed. R. Civ. P. 34(b)(2) (“The party to whom the request is directed
12 must respond in writing within 30 days after being served”); Pelton Decl. at ¶¶ 4-5.

13 On or around April 11, 2025, defense counsel requested to extend the deadline to
14 April 30, 2025, in line with an extension granted to Defendant Avid Telecom’s deadline to
15 respond. Pelton Decl. at ¶ 6, Ex. B. Plaintiff States’ counsel responded the same day, agreed
16 to the April 30, 2025 extension as to Defendant Lansky, and stated that defense counsel
17 should seek intervention of the Court should they require additional time. *Id.*

18 On or around April 30, 2025, defense counsel emailed Plaintiffs’ counsel stating
19 counsel was “still working on the document responses” and unsure whether the Responses
20 would be completed by the end of the day, but in any instance, defense counsel was “sure”
21 the Responses would be completed by the end of the day on Friday, May 2, 2025. *Id.* at
22 ¶ 7, Ex. C. Later that day, Plaintiffs accepted defense counsel’s request to extend the due
23 date to May 2, 2025. *Id.*

24 On or around May 2, 2025, defense counsel sent Plaintiffs Defendant Lansky’s
25 written responses to the Requests. *Id.* at ¶ 8, Exs. D-E.

26 On or around May 16, 2025, Plaintiffs sent defense counsel a request to meet and
27 confer regarding Defendant’s Lansky’s deficient and improper Responses, and demanded
28

1 a supplemental response. *Id.* at ¶ 9, Ex. F. Defense counsel did not respond to Plaintiffs’
2 May 16, 2025 correspondence. *Id.* at ¶ 10.

3 On or around May 27, 2025, Plaintiffs sent another email to defense counsel asking
4 for a response and again asking for availability for a meet and confer. *Id.* at ¶ 11, Ex. G.
5 The next day, defense counsel responded, stating that he would try to have a substantive
6 response “later today or tomorrow.” *Id.* at ¶ 12, Ex. H.

7 On or around June 19, 2025, Plaintiffs notified the Court of the dispute regarding
8 Plaintiffs’ First Set of Requests for Production. *Id.* at ¶ 13. On June 20, 2025, the Court
9 responded by email instructing the parties to meet and confer by June 27, 2025. *Id.* at ¶ 13,
10 Ex. I. On or around June 20, 2025, Plaintiffs’ counsel emailed defense counsel to schedule
11 a meet and confer. *Id.* at ¶ 14, Ex. J. Defense counsel did not respond. *Id.* at ¶ 15.

12 On or around June 30, 2025, Plaintiffs notified the Court of defense counsel’s failure
13 to even provide dates of availability to schedule a meet and confer regarding Plaintiffs’
14 disputes. *Id.* at ¶ 16. In a July 1, 2025 Order (Dkt. #118), the Court instructed the parties
15 to meet and confer on or before July 11, 2025.

16 On or around July 2, 2025, Plaintiffs emailed defense counsel asking for availability
17 for a meet and confer. The parties scheduled a meet and confer for the following week.
18 Pelton Decl. at ¶ 17, Ex. K.

19 During the July 9, 2025 meet and confer and in follow-up emails between the
20 parties, defense counsel agreed to provide supplemental written responses for Defendant
21 Lansky and to inform Plaintiffs when document production could be expected. *Id.* at ¶ 18,
22 Ex. L. Defense counsel failed to do either by their respective deadlines. *Id.* at ¶ 19. Plaintiffs
23 later sent defense counsel an email outlining the deficiencies with Defendant Reeves’ and
24 Defendant Lansky’s document production. *Id.* at ¶ 20, Ex. M.

25 As Plaintiffs’ disputes regarding Defendant Lansky’s deficient Responses and lack
26 of production remained unresolved, Plaintiffs contacted the Court to request that discovery
27 disputes be referred to a Magistrate. *Id.* at ¶ 21, Ex. N. In its August 11, 2025 Order (Dkt.
28

1 #126), the Court set a briefing schedule to allow the parties to present their discovery
2 disputes.

3 On or around September 15, 2025, the day the parties' final briefs were due pursuant
4 to the discovery dispute briefing schedule, Defendant Lansky made a document production.
5 Pelton Decl. at ¶ 23. The production was deficient under the ESI Order because, among
6 other things, the production did not include a complete index identifying the Request to
7 which each document corresponded, and it failed to provide a full production of documents.
8 *Id.* The index accompanying the production identified the documents as responsive to 37
9 of Plaintiffs' 106 Requests.

10 On or around October 15, 2025, Defendant Lansky produced additional documents.
11 Pelton Decl. at ¶ 24. The production did not comport with the ESI Order because, among
12 other things, the production did not include an index identifying the Request to which each
13 document corresponded and again did not provide a full production of documents.

14 In its October 24, 2025 Order (Dkt. #169), the Court instructed Defendant Lansky
15 to fully respond to the Requests and comply with the ESI Order by November 28, 2025.
16 Defendant Lansky did not provide supplemental responses or a conforming production by
17 that date. Pelton Decl. at ¶ 25.

18 On or around December 3, 2025, Plaintiffs emailed defense counsel and notified
19 them that Defendant Lansky had not met the Court's November 28, 2025 deadline. *Id.* at ¶
20 26, Ex. P. Defense counsel did not respond to Plaintiffs' correspondence. *Id.* at ¶ 27.

21 On December 10, 2025, the parties held a meet and confer. During the meeting,
22 Plaintiffs raised the issue of Defendant Lansky's partial index and incomplete production.
23 Defense counsel stated that a new law firm that has not entered a notice of appearance in this
24 case—Troutman Pepper Locke—is now responsible for Defendants' document production. *Id.*
25 at ¶ 28, Ex. Q. Defense counsel indicated they would check with the Troutman team and
26 provide Plaintiffs' counsel with an update. *Id.* To date, defense counsel has failed to do so.
27 *Id.* at ¶ 29. Plaintiffs also emailed counsel at Troutman to inquire about the status of
28

1 Defendant Lansky's document production. *Id.* at ¶ 30, Ex. R. Plaintiffs have not received
2 a response from Troutman. *Id.* at ¶ 31.

3 On or around December 12, 2025, Plaintiffs emailed defense counsel and again
4 raised the issue of the overdue indices. *Id.* at ¶ 32, Ex. S. Defense counsel has not
5 responded. *Id.* at ¶ 33.

6 On or around December 17, 2025, defense counsel responded to Plaintiffs'
7 December 11, 2025 email to Troutman, stating they expected to produce the overdue
8 indices "sometime this week". *Id.* at ¶ 34, Ex. T. Defendant Lansky has still not produced
9 the overdue document indices. *Id.* at ¶ 35.

10 11 **III. ARGUMENT**

12 Good cause exists to compel Defendant Lansky's compliance with his discovery
13 obligations. In his initial Responses, Defendant Lansky repeatedly asserted that "any
14 responsive documents will be made available (i.e. electronic, hard copy)." Pelton Decl. at
15 ¶ 8, Ex. E. Additionally, in their responsive discovery brief, all Defendants stated they are
16 not withholding any documents from production. *See* Dkt. #148 at p. 4, n. 3.

17 Defendant Lansky has made document productions to date, but the productions do
18 not comply with the terms of the Court's ESI Order (Dkt. #120) or Rule 34 of the Federal
19 Rules of Civil Procedure, and are thus deficient. Plaintiffs brought the issue of deficiency
20 to Defendants multiple times with no corrections. Specifically, Plaintiffs' review identified
21 the following deficiencies:

- 22 • In violation of Rule 34(b)(2)(B) and Section B(1)(a) of the Court's ESI
23 Order, which required Defendant Lansky to produce all documents in his
24 possession, custody, and control that he agreed to produce in his Responses
25 to Plaintiffs' Requests, Defendant Lansky failed to produce responsive
26 documents to Request Nos. 1, 10-12, 14-16, 26, 31-37, 44-47, 49-56, 66-68,

70, 72-74, 78-79, 83-85, 87-89, 91-94, 97-98, 100-106.¹ Plaintiffs have been severely prejudiced in finding relevant documents and preparing for depositions and trial due to Defendant Lansky's delay in producing these key documents.

- In violation of Rule 34(b)(2)(E)(i) and Section A(3) and Appendix A.4 of the ESI Order, which required Defendant Lansky to produce documents as they are kept in the usual course of business, Defendant Lansky's production was deficient as he produced documents in non-native format (e.g., Quickbooks data was produced in Excel format, rather than in its native Quickbooks format)², the documents he produced contain non-contemporaneous metadata, and have missing parent-child associated documents (e.g. emails with missing attachments). Plaintiffs are prejudiced in not having access to complete and accurate copies of documents at this late stage in the case.
- In violation of Rule 34(b)(2)(E)(i) and Section A(3) of the ESI Order, which required Defendant Lansky to organize and label produced documents to correspond to the categories in Plaintiffs' Requests, Defendant Lansky's production was deficient because he failed to label the documents in any way that corresponds to Plaintiffs' Requests. Moreover, the index Lansky provided is deficient under Section A(3) of the Court's ESI Order because it identifies only 37 of 106 demands for which documents have been produced. The ESI Order contains a document index requirement so the parties can

¹ These Requests include those that Defendant Lansky agreed to produce in his Response document, but also those Defendant Lansky did not agree to produce documents for, but defense counsel later stated that Lansky "intends to respond", as Defendant Lansky "inadvertently forgot to include the final sentence stating that notwithstanding the objection, a response will be provided." Pelton Decl. at ¶ 22, Ex. O. These Requests are Nos. 44, 46-47, 49-55, 91. 97-98, and 100-102.

² See *Plan Pros, Inc. v. Torczon*, No. 8:08CV136, 2009 U.S. Dist. LEXIS 92512, at *14-16 (D. Neb. Sept. 18, 2009) (when Quickbooks data was produced in Excel format, motion to compel production of data in original Quickbooks format was granted).

1 easily identify which documents are responsive to which Requests to
 2 expedite review. Plaintiffs are prejudiced in having to sort through Defendant
 3 Lansky's document production with no indication of what documents are
 4 responsive to which Requests, which has greatly delayed identification of
 5 relevant documents to be used in party depositions.

- 6 • Defendant Lansky has produced little to no records with respect to significant
 7 customers of Avid Telecom, including but not limited to Virtual Telecom,
 8 Mobi Telecom, and Geist Telecom, entities that were discussed at length in
 9 Plaintiffs' Complaint.³

10 Defendant Lansky has produced no account history logs for any of Avid Telecom's
 11 customers nor any production in response to a request seeking information related to entries
 12 on those logs⁴. The account history logs provide information as to customer identifiers,
 13 payments, network settings that determine call routing, call signaling and call volume
 14 capacity and the Avid representative who made changes to each⁵. Plaintiffs are prejudiced
 15 in not having this significant relevant information. Plaintiffs have attempted to meet and
 16 confer with Defendants on these issues multiple times – both in writing and telephonically
 17 - to no avail. *See* Pelton Decl. at ¶¶ 9-15, 17-18, 28-29, Exs. F-J, K-L, Q. Defense counsel
 18 now insists that a new law firm that has not entered a notice of appearance in this case—
 19 Troutman Pepper Locke—is responsible for Defendant Lansky's document production. *Id.*
 20 at ¶ 28, Ex. Q. However, when Plaintiffs' counsel contacted Troutman to inquire about the
 21 status of Defendant Lansky's document production, counsel received no response. *Id.* at ¶¶
 22 30-31, Ex. R.

23 Given the significant delay caused by Defendant Lansky's deficient document
 24 production, Plaintiffs respectfully request the Court to order Defendant Lansky to
 25

26 ³ *See, e.g.*, Request Nos. 2, 7-9, 14, 18, 22, 25, 27-29, 31-32, 34, 36, 62-64, 66, 81, 92-93,
 27 95, and 102-104.

28 ⁴ *See, e.g.*, Request No. 104.

⁵ *See, e.g.*, Account history logs, Dkt. #45-1 at ¶ 13, Att. C.

(1) provide an ESI-Order compliant index that encompasses all Requests; and (2) fix all above-identified issues with his production.

CONCLUSION

For the reasons set forth above, the Plaintiffs respectfully request the Court to order Defendant Lansky to provide compliant document production to Plaintiffs' First Set of Requests for the Production of Documents.

RESPECTFULLY SUBMITTED this 7th day of January, 2026.

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CERTIFICATE OF SERVICE

I hereby certify that on January 7, 2026, I caused the foregoing **PLAINTIFFS' MOTION TO COMPEL DEFENDANT MICHAEL D. LANSKY'S DOCUMENT PRODUCTION IN RESPONSE TO PLAINTIFFS' FIRST SET OF REQUESTS FOR PRODUCTION OF DOCUMENTS** to be filed and served electronically via the Court's CM/ECF system upon counsel of record.

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